

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:18-cv-497-RJC
(3:15-cr-121-RJC-DSC-5)**

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| MILTON CHAVARRIA, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | <u>ORDER</u> |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |
| <hr style="width:40%; margin-left:0"/> |) | |

THIS MATTER is before the Court on Petitioner’s *pro se* Letters seeking the appointment of counsel and for an extension of time within which to Reply to the Government’s Response in opposition to Petitioner’s Motion to Vacate pursuant to 28 U.S.C. § 2255.

First, Petitioner filed a Letter requesting, *inter alia*, the appointment of counsel. He claims that he is not in a position to hire counsel; he is incarcerated; he was appointed counsel in the lower proceedings. (Doc. No. 4)

There is no constitutional right to the appointment of counsel in a § 2255 proceeding. Pennsylvania v. Finley, 481 U.S. 551, 555 (1987). In § 2255 actions, appointment of counsel is governed by the Rules Governing § 2255 Proceedings, Rules 6(a) and 8(c), which mandate the appointment of counsel where discovery is necessary or if the matter proceeds to an evidentiary hearing. The Court may also appoint counsel to a financially eligible habeas petitioner if justice so requires. See 18 U.S.C. § 3006A(a)(2)(B).

The Court finds that Petitioner has not shown that appointment of counsel is appropriate. The Court, therefore, denies Petitioner’s motion to appoint counsel at this time.

Second, Petitioner has filed four Letters in which he asks that he be granted an extension of time within which to file a Reply to the Government's Response in opposition to his § 2255 Motion to Vacate. In two of the Letters, he requests 45 days from the filing of the Government's Response in which to file his Reply, (Doc. Nos. 8, 12), and in two others he seeks 30 days from the Court's Order to file his Reply (Doc. Nos. 10, 11).

For good cause shown, Petitioner's Motions for a 30-day extension of time from the date of this Order will be granted. Petitioner's Motions for a 45-day extension of time from the date of the Government's Response will be denied.

IT IS HEREBY ORDERED that:

- (1) Petitioner's Letter, (Doc. No. 4), is construed as a Motion for Appointment of Counsel and is **DENIED**.
- (2) Petitioner's Letters, (Doc. Nos. 10, 11), are construed as Motions for an Extension of Time to file a Reply within 30 days of this Order and are **GRANTED**.
- (3) Petitioner's Letters, (Doc. Nos. 8, 12), are construed as Motions for an Extension of time of 45 days from the Government's Response to file a Reply which are **DENIED**.

Signed: February 13, 2019



Robert J. Conrad, Jr.
United States District Judge

